

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 78, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete everything after the enacting clause and insert the
- 2 following:
- 3 SECTION 1. IC 5-2-6-3, AS AMENDED BY P.L.173-2006,
- 4 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2007]: Sec. 3. The institute is established to do the following:
- 6 (1) Evaluate state and local programs associated with:
- 7 (A) the prevention, detection, and solution of criminal
- 8 offenses;
- 9 (B) law enforcement; and
- 10 (C) the administration of criminal and juvenile justice.
- 11 (2) Improve and coordinate all aspects of law enforcement,
- 12 juvenile justice, and criminal justice in this state.
- 13 (3) Stimulate criminal and juvenile justice research.
- 14 (4) Develop new methods for the prevention and reduction of
- 15 crime.
- 16 (5) Prepare applications for funds under the Omnibus Act and
- 17 the Juvenile Justice Act.
- 18 (6) Administer victim and witness assistance funds.
- 19 (7) Administer the traffic safety functions assigned to the
- 20 institute under IC 9-27-2.
- 21 (8) Compile and analyze information and disseminate the
- 22 information to persons who make criminal justice decisions in
- 23 this state.
- 24 (9) Serve as the criminal justice statistical analysis center for this
- 25 state.
- 26 (10) Identify grants and other funds that can be used by the

department of correction to carry out its responsibilities concerning sex **or violent** offender registration under IC 11-8-8.

(11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.

(12) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

SECTION 2. IC 5-2-6-14, AS AMENDED BY P.L.173-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 12-18-5-2.

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

(1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;

(2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or

(3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.

(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

(1) pay the costs of administering the fund, including expenditures for personnel and data;

(2) support the **registration of sex or violent offenders under IC 11-8-8 and the Indiana sex and violent offender registry established under ~~IC 11-8-8~~; IC 36-2-13-5.5;**

(3) provide training for persons to assist victims; and

(4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.

SECTION 3. IC 10-13-3-5, AS AMENDED BY P.L.20-2006, SECTION 1, AND AS AMENDED BY P.L.140-2006, SECTION 4 AND P.L.173-2006, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) As used in this chapter, "criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals.

(b) The term consists of the following:

(1) Identifiable descriptions and notations of arrests, indictments,

1 informations, or other formal criminal charges.

2 (2) Information, *including a photograph*, regarding a sex ~~and or~~
3 *violent* offender (as defined in ~~IC 5-2-12-4~~ IC 11-8-8-5)
4 obtained through sex ~~and or~~ *violent* offender registration under
5 ~~IC 5-2-12~~; IC 11-8-8.

6 (3) Any disposition, including sentencing, and correctional
7 system intake, transfer, and release.

8 (4) *A photograph of the person who is the subject of the*
9 *information described in subdivisions (1) through (3).*

10 SECTION 4. IC 10-13-3-27, AS AMENDED BY P.L.1-2006,
11 SECTION 171, AND AS AMENDED BY P.L.140-2006, SECTION 5
12 AND P.L.173-2006, SECTION 5, IS CORRECTED AND AMENDED
13 TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a)
14 Except as provided in subsection (b), on request, a law enforcement
15 agency shall release a limited criminal history to or allow inspection of
16 a limited criminal history by noncriminal justice organizations or
17 individuals only if the subject of the request:

18 (1) has applied for employment with a noncriminal justice
19 organization or individual;

20 (2) has applied for a license and *has provided* criminal history
21 data ~~is~~ as required by law to be provided in connection with the
22 license;

23 (3) is a candidate for public office or a public official;

24 (4) is in the process of being apprehended by a law enforcement
25 agency;

26 (5) is placed under arrest for the alleged commission of a crime;

27 (6) has charged that the subject's rights have been abused
28 repeatedly by criminal justice agencies;

29 (7) is the subject of a judicial decision or determination with
30 respect to the setting of bond, plea bargaining, sentencing, or
31 probation;

32 (8) has volunteered services that involve contact with, care of, or
33 supervision over a child who is being placed, matched, or
34 monitored by a social services agency or a nonprofit corporation;

35 (9) is currently residing in a location designated by the
36 department of child services (established by ~~IC 31-33-1.5-2~~
37 IC 31-25-1-1) or by a juvenile court as the out-of-home
38 placement for a child at the time the child will reside in the
39 location;

40 (10) has volunteered services at a public school (as defined in
41 IC 20-18-2-15) or nonpublic school (as defined in
42 IC 20-18-2-12) that involve contact with, care of, or supervision
43 over a student enrolled in the school;

44 (11) is being investigated for welfare fraud by an investigator of
45 the division of family resources or a county office of family and
46 children;

47 (12) is being sought by the parent locator service of the child
48 support bureau of the ~~division~~ *department of family and*
49 ~~children~~; *child services*;

50 (13) is or was required to register as a sex ~~and or~~ *violent*

offender under ~~IC 5-2-12~~ IC 11-8-8; or

(14) has been convicted of any of the following:

- (A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.
- (B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.
- (C) Child molesting (IC 35-42-4-3).
- (D) Child exploitation (IC 35-42-4-4(b)).
- (E) Possession of child pornography (IC 35-42-4-4(c)).
- (F) Vicarious sexual gratification (IC 35-42-4-5).
- (G) Child solicitation (IC 35-42-4-6).
- (H) Child seduction (IC 35-42-4-7).
- (I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
- (J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

- (1) Federally chartered or insured banking institutions.
- (2) Officials of state and local government for any of the following purposes:
 - (A) Employment with a state or local governmental entity.
 - (B) Licensing.
- (3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who **knowingly or intentionally** uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 5. IC 10-13-3-30, AS AMENDED BY P.L.173-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may, if the agency has complied with the reporting requirements in section 24 of this chapter, and the department shall do the following:

- (1) Require a form, provided by law enforcement agencies and the department, to be completed. The form shall be maintained for two (2) years and shall be available to the record subject upon request.
- (2) Collect a three dollar (\$3) fee to defray the cost of processing a request for inspection.
- (3) Collect a seven dollar (\$7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support

bureau of the department of child services.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information that:

(1) has been requested; and

(2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request relates to the **registration of sex or violent offenders under IC 11-8-8 or the Indiana sex and violent offender registry under IC 11-8-8 IC 36-2-13-5.5** or concerns a person required to register as a sex **or violent** offender under IC 11-8-8.

SECTION 6. IC 10-13-4-4, AS AMENDED BY P.L.173-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. As used in this chapter, "juvenile history data" means information collected by criminal or juvenile justice agencies or individuals about a child who is alleged to have committed a reportable act and consists of the following:

(1) Descriptions and notations of events leading to the taking of the child into custody by a juvenile justice agency for a reportable act allegedly committed by the child.

(2) A petition alleging that the child is a delinquent child.

(3) Dispositional decrees concerning the child that are entered under IC 31-37-19 (or IC 31-6-4-15.9 before its repeal).

(4) The findings of a court determined after a hearing is held under IC 31-37-20-2 or IC 31-37-20-3 (or IC 31-6-4-19(h) or IC 31-6-4-19(i) before their repeal) concerning the child.

(5) Information:

(A) regarding a child who has been adjudicated a delinquent child for committing an act that would be an offense described in IC 11-8-8-5 if committed by an adult; and

(B) that is obtained through sex **or violent** offender registration under IC 11-8-8.

SECTION 7. IC 11-8-2-12.4, AS ADDED BY P.L.173-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.4. The department shall do the following:

(1) Maintain the Indiana sex **and violent** offender registry established under IC 36-2-13-5.5.

(2) Prescribe and approve a format for sex **or violent** offender registration as required by IC 11-8-8.

(3) Provide:

(A) judges;

(B) law enforcement officials;

(C) prosecuting attorneys;

(D) parole officers;

(E) probation officers; and

(F) community corrections officials;

with information and training concerning the requirements of IC 11-8-8 and the use of the Indiana sex **and violent** offender registry.

(4) Upon request of a neighborhood association:

(A) transmit to the neighborhood association information concerning sex **or violent** offenders who reside near the location of the neighborhood association; or

(B) provide instructional materials concerning the use of the Indiana sex **and violent** offender registry to the neighborhood association.

SECTION 8. IC 11-8-2-13, AS ADDED BY P.L.173-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) The Indiana sex **and violent** offender registry established under IC 36-2-13-5.5 and maintained by the department under section 12.4 of this chapter must include the names of each offender who is or has been required to register under IC 11-8-8.

(b) The department shall do the following:

(1) Ensure that the Indiana sex **and violent** offender registry is updated at least once per day with information provided by a local law enforcement authority (as defined in IC 11-8-8-2).

(2) Publish the Indiana sex **and violent** offender registry on the Internet through the computer gateway administered by the office of technology established by IC 4-13.1-2-1, and ensure that the Indiana sex **and violent** offender registry displays the following or similar words:

"Based on information submitted to law enforcement, a person whose name appears in this registry has been convicted of a sex **or violent** offense or has been adjudicated a delinquent child for an act that would be a sex **or violent** offense if committed by an adult."

SECTION 9. IC 11-8-8-3, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. As used in this chapter, "principal residence" means the residence where a sex **or violent** offender spends the most time. The term includes a residence owned or leased by another person if the sex **or violent** offender:

(1) does not own or lease a residence; or

(2) spends more time at the residence owned or leased by the other person than at the residence owned or leased by the sex **or violent** offender.

SECTION 10. IC 11-8-8-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) As used in this chapter, "sex offender" means a person convicted of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9).

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(13) Possession of child pornography (IC 35-42-4-4(c)), if the person has a prior unrelated conviction for possession of child pornography (IC 35-42-4-4(c)).

(14) An attempt or a conspiracy to commit a crime listed in subdivisions (1) through (13).

(15) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (14).

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 11. IC 11-8-8-5, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) As used in this chapter, "sex or violent offender" means a person convicted of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9).

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less

than eighteen (18) years of age.

(13) Possession of child pornography (IC 35-42-4-4(c)), if the person has a prior unrelated conviction for possession of child pornography (IC 35-42-4-4(c)).

(14) Murder (IC 35-42-1-1).

(15) Voluntary manslaughter (IC 35-42-1-3).

~~(14)~~ **(16)** An attempt or a conspiracy to commit a crime listed in subdivisions (1) through ~~(13)~~: **(15)**.

~~(15)~~ **(17)** A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through ~~(14)~~: **(16)**.

(b) The term includes:

(1) a person who is required to register as a sex **or violent** offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 12. IC 11-8-8-7, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Subject to section 19 of this chapter, the following persons must register under this chapter:

(1) A sex **or violent** offender who resides in Indiana. A sex **or violent** offender resides in Indiana if either of the following applies:

(A) The sex **or violent** offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The sex **or violent** offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex **or violent** offender who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time: ~~for a period:~~

(A) ~~for a period~~ exceeding fourteen (14) consecutive days; or

(B) for a total period exceeding thirty (30) days;

during any calendar year in Indiana, whether the sex **or violent** offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex **or violent** offender who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or

professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), a sex **or violent** offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex **or violent** offender resides. If a sex **or violent** offender resides in more than one (1) county, the sex **or violent** offender shall register with the local law enforcement authority in each county in which the sex **or violent** offender resides. If the sex **or violent** offender is also required to register under subsection (a)(2) or (a)(3), the sex **or violent** offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (c) or (d).

(c) A sex **or violent** offender described in subsection (a)(2) shall register with the local law enforcement authority in the county where the sex **or violent** offender is or intends to be employed or carry on a vocation. If a sex **or violent** offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex **or violent** offender shall register with the local law enforcement authority in each county. If the sex **or violent** offender is also required to register under subsection (a)(1) or (a)(3), the sex **or violent** offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (d).

(d) A sex **or violent** offender described in subsection (a)(3) shall register with the local law enforcement authority in the county where the sex **or violent** offender is enrolled or intends to be enrolled as a student. If the sex **or violent** offender is also required to register under subsection (a)(1) or (a)(2), the sex **or violent** offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (c).

(e) A sex **or violent** offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located. If the sex **or violent** offender is also required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex **or violent** offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b), (c), or (d).

(f) A sex **or violent** offender committed to the department shall register with the department before the sex **or violent** offender is released from incarceration. The department shall forward the sex **or violent** offender's registration information to the local law enforcement authority of every county in which the sex **or violent** offender is required to register.

(g) This subsection does not apply to a sex **or violent** offender who is a sexually violent predator. A sex **or violent** offender not committed to the department shall register not more than seven (7) days after the sex **or violent** offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);

(2) is released from a secure private facility (as defined in IC 31-9-2-115);

- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the sex **or violent** offender is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex **or violent** offender required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the sex **or violent** offender's arrival in that county or acquisition of real estate in that county.

(h) This subsection applies to a sex **or violent** offender who is a sexually violent predator. A sex **or violent** offender who is a sexually violent predator shall register not more than seventy-two (72) hours after the sex **or violent** offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21);
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the sexually violent predator is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex **or violent** offender who is a sexually violent predator required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the offender's arrival in that county or acquisition of real estate in that county.

(i) The local law enforcement authority with whom a sex **or violent** offender registers under this section shall make and publish a photograph of the sex **or violent** offender on the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5. The local law enforcement authority shall make a photograph of the sex **or violent** offender that complies with the requirements of IC 36-2-13-5.5 at least once per year. The sheriff of a county containing a consolidated city shall provide the police chief of the consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex **or violent** offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5.

(j) When a sex **or violent** offender registers, the local law

enforcement authority shall:

- (1) immediately update the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5; and
- (2) notify every law enforcement agency having jurisdiction in the county where the sex **or violent** offender resides.

The local law enforcement authority shall provide the department and a law enforcement agency described in subdivision (2) with the information provided by the sex **or violent** offender during registration.

SECTION 13. IC 11-8-8-8, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. The registration required under this chapter must include the following information:

- (1) The sex **or violent** offender's full name, alias, any name by which the sex **or violent** offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, any scars, marks, or tattoos, Social Security number, driver's license number or state identification number, principal residence address, and mailing address, if different from the sex **or violent** offender's principal residence address.
- (2) A description of the offense for which the sex **or violent** offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.
- (3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex **or violent** offender's employers in Indiana, the name and address of each campus or location where the sex **or violent** offender is enrolled in school in Indiana, and the address where the sex **or violent** offender stays or intends to stay while in Indiana.
- (4) A recent photograph of the sex **or violent** offender.
- (5) If the sex **or violent** offender is a sexually violent predator, that the sex **or violent** offender is a sexually violent predator.
- (6) If the sex **or violent** offender is required to register for life, that the sex **or violent** offender is required to register for life.
- (7) Any other information required by the department.

SECTION 14. IC 11-8-8-9, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) Not more than seven (7) days before an Indiana sex **or violent** offender who is required to register under this chapter is scheduled to be released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

- (1) Orally inform the sex **or violent** offender of the sex **or violent** offender's duty to register under this chapter and require the sex **or violent** offender to sign a written statement that the sex **or violent** offender was orally informed or, if the sex **or violent** offender refuses to sign the statement, certify that the sex **or violent** offender was orally informed of the duty to register.
- (2) Deliver a form advising the sex **or violent** offender of the sex **or violent** offender's duty to register under this chapter and

1 require the sex **or violent** offender to sign a written statement
 2 that the sex **or violent** offender received the written notice or, if
 3 the sex **or violent** offender refuses to sign the statement, certify
 4 that the sex **or violent** offender was given the written notice of
 5 the duty to register.

6 (3) Obtain the address where the sex **or violent** offender expects
 7 to reside after the sex **or violent** offender's release.

8 (4) Transmit to the local law enforcement authority in the county
 9 where the sex **or violent** offender expects to reside the sex **or**
 10 **violent** offender's name, date of release or transfer, new address,
 11 and the offense or delinquent act committed by the sex **or**
 12 **violent** offender.

13 (b) Not more than seventy-two (72) hours after a sex **or violent**
 14 offender who is required to register under this chapter is released or
 15 transferred as described in subsection (a), an official of the facility shall
 16 transmit to the state police the following:

17 (1) The sex **or violent** offender's fingerprints, photograph, and
 18 identification factors.

19 (2) The address where the sex **or violent** offender expects to
 20 reside after the sex **or violent** offender's release.

21 (3) The complete criminal history data (as defined in
 22 IC 10-13-3-5) or, if the sex **or violent** offender committed a
 23 delinquent act, juvenile history data (as defined in IC 10-13-4-4)
 24 of the sex **or violent** offender.

25 (4) Information regarding the sex **or violent** offender's past
 26 treatment for mental disorders.

27 (5) Information as to whether the sex offender has been
 28 determined to be a sexually violent predator.

29 (c) This subsection applies if a sex **or violent** offender is placed
 30 on probation or in a community corrections program without being
 31 confined in a penal facility. The probation office serving the court in
 32 which the sex **or violent** offender is sentenced shall perform the duties
 33 required under subsections (a) and (b).

34 SECTION 15. IC 11-8-8-10, AS ADDED BY P.L.173-2006,
 35 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2007]: Sec. 10. Notwithstanding any other law, upon receiving
 37 a sex **or violent** offender's fingerprints from a correctional facility, the
 38 state police shall immediately send the fingerprints to the Federal
 39 Bureau of Investigation.

40 SECTION 16. IC 11-8-8-11, AS ADDED BY P.L.173-2006,
 41 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2007]: Sec. 11. (a) If a sex **or violent** offender who is required
 43 to register under this chapter changes:

44 (1) principal residence address; or

45 (2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place
 46 where the sex **or violent** offender stays in Indiana;

47 the sex **or violent** offender shall register not more than seventy-two
 48 (72) hours after the address change with the local law enforcement
 49 authority with whom the sex **or violent** offender last registered.

50 (b) If a sex **or violent** offender moves to a new county in Indiana,

the local law enforcement authority referred to in subsection (a) shall inform the local law enforcement authority in the new county in Indiana of the sex **or violent** offender's residence and forward all relevant registration information concerning the sex **or violent** offender to the local law enforcement authority in the new county. The local law enforcement authority receiving notice under this subsection shall verify the address of the sex **or violent** offender under section 13 of this chapter not more than seven (7) days after receiving the notice.

(c) If a sex **or violent** offender who is required to register under section 7(a)(2) or 7(a)(3) of this chapter changes the sex **or violent** offender's principal place of employment, principal place of vocation, or campus or location where the sex **or violent** offender is enrolled in school, the sex **or violent** offender shall register not more than seventy-two (72) hours after the change with the local law enforcement authority with whom the sex **or violent** offender last registered.

(d) If a sex **or violent** offender moves the sex **or violent** offender's place of employment, vocation, or enrollment to a new county in Indiana, the local law enforcement authority referred to in subsection (c) shall inform the local law enforcement authority in the new county of the sex **or violent** offender's new principal place of employment, vocation, or enrollment by forwarding relevant registration information to the local law enforcement authority in the new county.

(e) If a sex **or violent** offender moves the sex **or violent** offender's residence, place of employment, vocation, or enrollment to a new state, the local law enforcement authority shall inform the state police in the new state of the sex **or violent** offender's new place of residence, employment, or enrollment.

(f) A local law enforcement authority shall make registration information, including information concerning the duty to register and the penalty for failing to register, available to a sex **or violent** offender.

(g) A local law enforcement authority who is notified of a change under subsection (a) or (c) shall immediately update the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5.

SECTION 17. IC 11-8-8-12, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) As used in this section, "temporary residence" means a residence:

(1) that is established to provide transitional housing for a person without another residence; and

(2) in which a person is not typically permitted to reside for more than thirty (30) days in a sixty (60) day period.

(b) This section applies only to a sex **or violent** offender who resides in a temporary residence. In addition to the other requirements of this chapter, a sex **or violent** offender who resides in a temporary residence shall register in person with the local law enforcement authority in which the temporary residence is located:

(1) not more than seventy-two (72) hours after the sex **or violent** offender moves into the temporary residence; and

(2) during the period in which the sex **or violent** offender resides

1 in a temporary residence, at least once every seven (7) days
 2 following the sex **or violent** offender's initial registration under
 3 subdivision (1).

4 (c) A sex **or violent** offender's obligation to register in person once
 5 every seven (7) days terminates when the sex **or violent** offender no
 6 longer resides in the temporary residence. However, all other
 7 requirements imposed on a sex **or violent** offender by this chapter
 8 continue in force, including the requirement that a sex **or violent**
 9 offender register the sex **or violent** offender's new address with the
 10 local law enforcement authority.

11 SECTION 18. IC 11-8-8-13, AS ADDED BY P.L.173-2006,
 12 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2007]: Sec. 13. (a) To verify a sex **or violent** offender's
 14 current residence, the local law enforcement authority shall do the
 15 following:

16 (1) Mail a reply form to each sex **or violent** offender in the
 17 county at the sex **or violent** offender's listed address at least one
 18 (1) time per year, beginning seven (7) days after the local law
 19 enforcement authority receives a notice under section 11 or 20
 20 of this chapter or the date the sex **or violent** offender is:

- 21 (A) released from a penal facility (as defined in
- 22 IC 35-41-1-21), a secure private facility (as defined in
- 23 IC 31-9-2-115), or a juvenile detention facility;
- 24 (B) placed in a community transition program;
- 25 (C) placed in a community corrections program;
- 26 (D) placed on parole; or
- 27 (E) placed on probation;

28 whichever occurs first.

29 (2) Mail a reply form to each sex **or violent** offender who is
 30 designated a sexually violent predator under IC 35-38-1-7.5 at
 31 least once every ninety (90) days, beginning seven (7) days after
 32 the local law enforcement authority receives a notice under
 33 section 11 or 20 of this chapter or the date the sex **or violent**
 34 offender is:

- 35 (A) released from a penal facility (as defined in
- 36 IC 35-41-1-21), a secure private facility (as defined in
- 37 IC 31-9-2-115), or a juvenile detention facility;
- 38 (B) placed in a community transition program;
- 39 (C) placed in a community corrections program;
- 40 (D) placed on parole; or
- 41 (E) placed on probation;

42 whichever occurs first.

43 (3) Personally visit each sex **or violent** offender in the county at
 44 the sex **or violent** offender's listed address at least one (1) time
 45 per year, beginning seven (7) days after the local law
 46 enforcement authority receives a notice under section 7 of this
 47 chapter or the date the sex **or violent** offender is:

- 48 (A) released from a penal facility (as defined in
- 49 IC 35-41-1-21), a secure private facility (as defined in
- 50 IC 31-9-2-115), or a juvenile detention facility;

- 1 (B) placed in a community transition program;
- 2 (C) placed in a community corrections program;
- 3 (D) placed on parole; or
- 4 (E) placed on probation;

5 whichever occurs first.

6 (4) Personally visit each sex offender who is designated a
 7 sexually violent predator under IC 35-38-1-7.5 at least once
 8 every ninety (90) days, beginning seven (7) days after the local
 9 law enforcement authority receives a notice under section 7 of
 10 this chapter or the date the sex offender is:

- 11 (A) released from a penal facility (as defined in
- 12 IC 35-41-1-21), a secure private facility (as defined in
- 13 IC 31-9-2-115), or a juvenile detention facility;
- 14 (B) placed in a community transition program;
- 15 (C) placed in a community corrections program;
- 16 (D) placed on parole; or
- 17 (E) placed on probation;

18 whichever occurs first.

19 (b) If a sex **or violent** offender fails to return a signed reply form
 20 either by mail or in person, not later than fourteen (14) days after
 21 mailing, or appears not to reside at the listed address, the local law
 22 enforcement authority shall immediately notify the department and the
 23 prosecuting attorney.

24 SECTION 19. IC 11-8-8-14, AS ADDED BY P.L.173-2006,
 25 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2007]: Sec. 14. At least once per calendar year, a sex **or**
 27 **violent** offender who is required to register under this chapter shall:

- 28 (1) report in person to the local law enforcement authority;
- 29 (2) register; and
- 30 (3) be photographed by the local law enforcement authority;

31 in each location where the offender is required to register.

32 SECTION 20. IC 11-8-8-15, AS ADDED BY P.L.173-2006,
 33 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2007]: Sec. 15. (a) A sex **or violent** offender who is a resident
 35 of Indiana shall obtain and keep in the sex **or violent** offender's
 36 possession:

- 37 (1) a valid Indiana driver's license; or
- 38 (2) a valid Indiana identification card (as described in
- 39 IC 9-24-16).

40 (b) A sex **or violent** offender required to register in Indiana who
 41 is not a resident of Indiana shall obtain and keep in the sex **or violent**
 42 offender's possession:

- 43 (1) a valid driver's license issued by the state in which the sex **or**
 44 **violent** offender resides; or
- 45 (2) a valid state issued identification card issued by the state in
 46 which the sex **or violent** offender resides.

47 (c) A person who knowingly or intentionally violates this section
 48 commits failure of a sex **or violent** offender to possess identification,
 49 a Class A misdemeanor. However, the offense is a Class D felony if the
 50 person:

(1) is a sexually violent predator; or

(2) has a prior unrelated conviction:

(A) under this section; or

(B) based on the person's failure to comply with any requirement imposed on an offender under this chapter.

(d) It is a defense to a prosecution under this section that:

(1) the person has been unable to obtain a valid driver's license or state issued identification card because less than thirty (30) days have passed since the person's release from incarceration; or

(2) the person possesses a driver's license or state issued identification card that expired not more than thirty (30) days before the date the person violated subsection (a) or (b).

SECTION 21. IC 11-8-8-16, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) A sex **or violent** offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If a sex **or violent** offender who is required to register under this chapter changes the sex **or violent** offender's name due to marriage, the sex **or violent** offender must register with the local law enforcement authority not more than seven (7) days after the name change.

SECTION 22. IC 11-8-8-17, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. A sex **or violent** offender who knowingly or intentionally:

(1) fails to register when required to register under this chapter;

(2) fails to register in every location where the sex **or violent** offender is required to register under this chapter;

(3) makes a material misstatement or omission while registering as a sex **or violent** offender under this chapter; or

(4) fails to register in person and be photographed at least one (1) time per year as required under this chapter;

commits a Class D felony. However, the offense is a Class C felony if the sex **or violent** offender has a prior unrelated conviction for an offense under this section or based on the person's failure to comply with any requirement imposed on a sex **or violent** offender under this chapter.

SECTION 23. IC 11-8-8-19, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) Except as provided in subsections (b) through (e), a sex **or violent** offender is required to register under this chapter until the expiration of ten (10) years after the date the sex **or violent** offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;

(2) is placed in a community transition program;

(3) is placed in a community corrections program;

- 1 (4) is placed on parole; or
- 2 (5) is placed on probation;
- 3 whichever occurs last. The department shall ensure that an offender
- 4 who is no longer required to register as a sex **or violent** offender is
- 5 notified that the obligation to register has expired.
- 6 (b) A sex offender who is a sexually violent predator is required
- 7 to register for life.
- 8 (c) A sex **or violent** offender who is convicted of at least one (1)
- 9 sex **or violent** offense that the sex **or violent** offender committed:
- 10 (1) when the person was at least eighteen (18) years of age; and
- 11 (2) against a victim who was less than twelve (12) years of age
- 12 at the time of the crime;
- 13 is required to register for life.
- 14 (d) A sex **or violent** offender who is convicted of at least one (1)
- 15 sex **or violent** offense in which the sex **or violent** offender:
- 16 (1) proximately caused serious bodily injury or death to the
- 17 victim;
- 18 (2) used force or the threat of force against the victim or a
- 19 member of the victim's family; or
- 20 (3) rendered the victim unconscious or otherwise incapable of
- 21 giving voluntary consent;
- 22 is required to register for life.
- 23 (e) A sex **or violent** offender who is convicted of at least two (2)
- 24 unrelated sex **or violent** offenses is required to register for life.
- 25 SECTION 24. IC 11-8-8-20, AS ADDED BY P.L.173-2006,
- 26 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 27 JULY 1, 2007]: Sec. 20. (a) The governor may enter into a compact
- 28 with one (1) or more jurisdictions outside Indiana to exchange
- 29 notifications concerning the release, transfer, or change of address,
- 30 employment, vocation, or enrollment of a sex **or violent** offender
- 31 between Indiana and the other jurisdiction or the other jurisdiction and
- 32 Indiana.
- 33 (b) The compact must provide for the designation of a state agency
- 34 to coordinate the transfer of information.
- 35 (c) If the state agency receives information that a sex **or violent**
- 36 offender has relocated to Indiana to reside, engage in employment or
- 37 a vocation, or enroll in school, the state agency shall inform in writing
- 38 the local law enforcement authority where the sex **or violent** offender
- 39 is required to register in Indiana of:
- 40 (1) the sex **or violent** offender's name, date of relocation, and
- 41 new address; and
- 42 (2) the sex **or violent** offense or delinquent act committed by the
- 43 sex **or violent** offender.
- 44 (d) The state agency shall determine, following a hearing:
- 45 (1) whether a person convicted of an offense in another
- 46 jurisdiction is required to register as a sex **or violent** offender in
- 47 Indiana;
- 48 (2) whether an out of state sex **or violent** offender is a sexually
- 49 violent predator; and
- 50 (3) the period in which an out of state sex **or violent** offender

1 who has moved to Indiana will be required to register as a sex **or**
 2 **violent** offender in Indiana.

3 SECTION 25. IC 11-13-3-4, AS AMENDED BY P.L.60-2006,
 4 SECTION 1, AS AMENDED BY P.L.139-2006, SECTION 2, AS
 5 AMENDED BY P.L.140-2006, SECTION 15, AND AS AMENDED
 6 BY P.L.173-2006, SECTION 15, IS CORRECTED AND AMENDED
 7 TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A
 8 condition to remaining on parole is that the parolee not commit a crime
 9 during the period of parole.

10 (b) The parole board may also adopt, under IC 4-22-2, additional
 11 conditions to remaining on parole and require a parolee to satisfy one
 12 (1) or more of these conditions. These conditions must be reasonably
 13 related to the parolee's successful reintegration into the community and
 14 not unduly restrictive of a fundamental right.

15 (c) If a person is released on parole the parolee shall be given a
 16 written statement of the conditions of parole. Signed copies of this
 17 statement shall be:

- 18 (1) retained by the parolee;
- 19 (2) forwarded to any person charged with the parolee's
- 20 supervision; and
- 21 (3) placed in the parolee's master file.

22 (d) The parole board may modify parole conditions if the parolee
 23 receives notice of that action and had ten (10) days after receipt of the
 24 notice to express the parolee's views on the proposed modification.
 25 This subsection does not apply to modification of parole conditions
 26 after a revocation proceeding under section 10 of this chapter.

27 (e) As a condition of parole, the parole board may require the
 28 parolee to reside in a particular parole area. In determining a parolee's
 29 residence requirement, the parole board shall:

- 30 (1) consider:
 - 31 (A) the residence of the parolee prior to the parolee's
 - 32 incarceration; and
 - 33 (B) the parolee's place of employment; and
- 34 (2) assign the parolee to reside in the county where the parolee
- 35 resided prior to the parolee's incarceration unless assignment on
- 36 this basis would be detrimental to the parolee's successful
- 37 reintegration into the community.

38 (f) As a condition of parole, the parole board may require the
 39 parolee to:

- 40 (1) periodically undergo a laboratory chemical test (as defined
- 41 in IC 14-15-8-1) or series of tests to detect and confirm the
- 42 presence of a controlled substance (as defined in IC 35-48-1-9);
- 43 and
- 44 (2) have the results of any test under this subsection reported to
- 45 the parole board by the laboratory.

46 The parolee is responsible for any charges resulting from a test
 47 required under this subsection. However, a person's parole may not be
 48 revoked on the basis of the person's inability to pay for a test under this
 49 subsection.

50 (g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex ~~and violent~~ offender (as defined in ~~IC 5-2-12-4~~ ~~IC 11-8-8-5~~ **IC 11-8-8-4.5**) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is ~~an~~ a sex **or violent** offender (as defined in ~~IC 5-2-12-4~~ ~~IC 11-8-8-5~~) to register with a ~~sheriff (or the police chief of a consolidated city)~~ local law enforcement authority under ~~IC 5-2-12-5~~, ~~IC 11-8-8~~;

(B) prohibit ~~the~~ a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, *unless the sex offender obtains written approval from the parole board; and*

(C) prohibit a parolee who is ~~an~~ a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense *unless the sex offender obtains a waiver under IC 35-38-2-2.5; and*

(D) *prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age.*

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) a waiver under subdivision (2)(B) or (2)(C). If the parole board allows ~~the~~ a sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is ~~an~~ a sex **or violent** offender convicted of a sex **or violent** offense (as defined in IC 35-38-2-2.5) is confidential, *even if the sex **or violent** offender obtains a waiver under IC 35-38-2-2.5.*

(i) *As a condition of parole, the parole board may require a parolee to participate in a reentry court program.*

~~(j)~~ **(j)** *As a condition of parole, the parole board:*

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

*(2) may require a parolee who is a sex **or violent** offender (as defined in ~~IC 5-2-12-4~~, ~~IC 11-8-8-5~~;*

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

~~(j)~~ **(k)** *As a condition of parole, the parole board may prohibit, in accordance with ~~IC 35-38-2-2.5~~, IC 35-38-2-2.6, a parolee who has*

1 *been convicted of stalking from residing within one thousand (1,000)*
 2 *feet of the residence of the victim of the stalking for a period that does*
 3 *not exceed five (5) years.*

4 SECTION 26. IC 11-13-4.5-1 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The governor shall
 6 enter into a compact on behalf of the state with any other state in the
 7 form substantially as follows:

8 ARTICLE I

9 DEFINITIONS

10 As used in this compact, unless the context clearly requires a
 11 different construction:

12 (1) "Adult" means both individuals legally classified as adults
 13 and juveniles treated as adults by court order, statute, or
 14 operation of law.

15 (2) "Bylaws" mean those bylaws established by the interstate
 16 commission for its governance or for directing or controlling the
 17 interstate commission's actions or conduct.

18 (3) "Compact administrator" means the individual in each
 19 compacting state appointed under the terms of this compact
 20 responsible for the administration and management of the state's
 21 supervision and transfer of offenders subject to the terms of this
 22 compact, the rules adopted by the interstate commission, and
 23 policies adopted by the state council under this compact.

24 (4) "Compacting state" means any state that has enacted the
 25 enabling legislation for this compact.

26 (5) "Commissioner" means the voting representative of each
 27 compacting state appointed under Article II of this compact.

28 (6) "Interstate commission" means the interstate commission for
 29 adult offender supervision established by this compact.

30 (7) "Member" means the commissioner of a compacting state or
 31 designee, who shall be a person officially connected with the
 32 commissioner.

33 (8) "Non-compacting state" means any state that has not enacted
 34 the enabling legislation for this compact.

35 (9) "Offender" means an adult placed under or subject to
 36 supervision as the result of the commission of a criminal offense
 37 and released to the community under the jurisdiction of courts,
 38 paroling authorities, corrections, or other criminal justice
 39 agencies.

40 (10) "Person" means any individual, corporation, business
 41 enterprise, or other legal entity, either public or private.

42 (11) "Rules" means acts of the interstate commission, adopted
 43 under Article VIII of this compact, substantially affecting
 44 interested parties in addition to the interstate commission.

45 (12) "State" means a state of the United States, the District of
 46 Columbia, or any other territorial possession of the United
 47 States.

48 (13) "State council" means the resident members of the state
 49 council for interstate adult offender supervision created by each
 50 state under Article II of this compact.

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ARTICLE II

THE COMPACT COMMISSION

(1) The interstate commission for adult offender supervision is established.

(2) The interstate commission is a body corporate and joint agency of the compacting states. The interstate commission has all the responsibilities, powers, and duties set forth in this chapter, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(3) The interstate commission consists of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state. In addition to the commissioners, who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners but who are members of interested organizations; such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, and crime victims. All non-commissioner members of the interstate commission are ex officio nonvoting members. The interstate commission may provide in its bylaws for such additional, ex officio, nonvoting members as it considers necessary.

(4) Each compacting state represented at any meeting of the interstate commission is entitled to one (1) vote. A majority of the compacting states constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

(5) The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of twenty-seven (27) or more compacting states, shall call additional meetings. Public notice shall be given of all meetings, and meetings shall be open to the public.

(6) The interstate commission shall establish an executive committee that must include commission officers, members, and others as shall be determined by the bylaws. The executive committee has authority to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking or amendment to the compact. The executive committee oversees the day to day activities managed by the executive director and interstate commission staff, administers enforcement and compliance with the provisions of the compact, its bylaws, and as directed by the interstate commission, and performs other duties as directed by **the** commission or set forth in the bylaws.

ARTICLE III

THE STATE COUNCIL

Each member state shall create a state council for interstate adult

offender supervision that shall be responsible for the appointment of the commissioner who shall serve on the interstate commission from that state. Each state council shall appoint as its commissioner the compact administrator from that state to serve on the interstate commission in such capacity or under applicable law of the member state. Although each member state may determine the membership of its own state council, its membership must include at least one (1) representative from the legislative, judicial, and executive branches of government, victims groups, and compact administrators. Each compacting state retains the right to determine the qualifications of the compact administrator, who shall be appointed by the state council or by the governor in consultation with the general assembly and the judiciary. In addition to appointment of its commissioner to the national interstate commission, each state council shall exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by each member state, including but not limited to development of policy concerning operations and procedures of the compact within that state.

ARTICLE IV

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers:

- (1) To adopt a seal and suitable bylaws governing the management and operation of the interstate commission.
- (2) To adopt rules that are binding in the compacting states to the extent and in the manner provided in this compact.
- (3) To oversee, supervise, and coordinate the interstate movement of offenders, subject to the terms of this compact and any bylaws adopted and rules adopted by the compact commission.
- (4) To enforce compliance with compact provisions, interstate commission rules, and bylaws, using all necessary and proper means, including but not limited to the use of judicial process.
- (5) To establish and maintain offices.
- (6) To purchase and maintain insurance and bonds.
- (7) To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.
- (8) To establish and appoint committees and hire staff it considers necessary for the carrying out of its functions, including, but not limited to, an executive committee as required by Article II that may act on behalf of the interstate commission in carrying out its powers and duties.
- (9) To elect or appoint officers, attorneys, employees, agents, or consultants, to fix their compensation, define their duties, and determine their qualifications, and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.
- (10) To accept donations and grants of money, equipment, supplies, materials, and services and to receive, use, and dispose of them.

(11) To lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any real, personal, or mixed property.

(12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any real, personal, or mixed property.

(13) To establish a budget and make expenditures and levy dues as provided in Article IX of this compact.

(14) To sue and be sued.

(15) To provide for dispute resolution among compacting states.

(16) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

(17) To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Such reports must include any recommendations that may have been adopted by the interstate commission.

(18) To coordinate education, training, and public awareness regarding the interstate movement of offenders for officials involved in such activity.

(19) To establish uniform standards for the reporting, collecting, and exchanging of data.

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Part A. Bylaws

The interstate commission shall, by a majority of the members, within twelve (12) months of the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including:

(1) establishing the fiscal year of the interstate commission;

(2) establishing an executive committee and such other committees as may be necessary;

(3) providing reasonable standards and procedures:

(A) for the establishment of committees; and

(B) governing any general or specific delegation of any authority or function of the interstate commission;

(4) providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each meeting;

(5) establishing the titles and responsibilities of the officers of the interstate commission;

(6) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the interstate commission;

(7) providing a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus

1 funds that may exist upon the termination of the compact after
 2 the payment and reserving of its debts and obligations;
 3 (8) providing transition rules for start up administration of the
 4 compact; and
 5 (9) establishing standards and procedures for compliance and
 6 technical assistance in carrying out the compact.

7 Part B. Officers and Staff

8 (a) The interstate commission, by a majority of the members, shall
 9 elect from among its members a chairperson and a vice chairperson,
 10 each of whom shall have such authorities and duties as may be
 11 specified in the bylaws. The chairperson or, in the chairperson's
 12 absence or disability, the vice chairperson, shall preside at all meetings
 13 of the interstate commission. The officers elected shall serve without
 14 compensation or remuneration from the interstate commission.
 15 However, subject to the availability of budgeted funds, the officers
 16 shall be reimbursed for any actual and necessary costs and expenses
 17 incurred by them in the performance of their duties and responsibilities
 18 as officers of the interstate commission.

19 (b) The interstate commission, through its executive committee,
 20 shall appoint or retain an executive director for such time, upon such
 21 terms and conditions, and for such compensation as the interstate
 22 commission may find appropriate. The executive director shall serve
 23 as secretary to the interstate commission and hire and supervise such
 24 other staff as may be authorized by the interstate commission, but shall
 25 not be a member.

26 Part C. Corporate Records of the Interstate Commission

27 The interstate commission shall maintain its corporate books and
 28 records in accordance with the bylaws.

29 Part D. Qualified Immunity, Defense, and Indemnification

30 (a) The members, officers, executive director, and employees of
 31 the interstate commission are immune from suit and liability, either
 32 personally or in their official capacities, for any claim for damage to or
 33 loss of property or personal injury or other civil liability caused or
 34 arising out of any actual or alleged act, error, or omission that occurs
 35 within the scope of interstate commission employment, duties, or
 36 responsibilities. However, nothing in this paragraph shall be construed
 37 to protect any such person from suit or liability for any damage, loss,
 38 injury, or liability caused by the intentional or willful and wanton
 39 misconduct of any such person.

40 (b) The interstate commission shall defend the commissioner of a
 41 compacting state, the commissioner's representatives or employees, and
 42 the interstate commission's representatives or employees in any civil
 43 action seeking to impose liability arising out of any actual or alleged
 44 act, error, or omission that occurs within the scope of interstate
 45 commission employment, duties, or responsibilities or that the
 46 defendant has a reasonable basis for believing occurred within the
 47 scope of interstate commission employment, duties, or responsibilities,
 48 as long as the actual or alleged act, error, or omission did not result
 49 from intentional wrongdoing on the part of the person.

50 (c) The interstate commission shall indemnify and hold the

1 commissioner of a compacting state, the appointed designee or
 2 employees, and the interstate commission's representatives or
 3 employees harmless in the amount of any settlement or judgment
 4 obtained against such persons arising out of any actual or alleged act,
 5 error, or omission that occurs within the scope of interstate commission
 6 employment, duties, or responsibilities, or that such persons had a
 7 reasonable basis for believing occurred within the scope of interstate
 8 commission employment, duties, or responsibilities, provided that the
 9 actual or alleged act, error, or omission did not result from gross
 10 negligence or intentional wrongdoing on the part of the person.

11 ARTICLE VI

12 ACTIVITIES OF THE INTERSTATE COMMISSION

13 (a) The interstate commission shall meet and take such actions as
 14 are consistent with the provisions of this compact. Except as otherwise
 15 provided in this compact and unless a greater percentage is required by
 16 the bylaws, in order to constitute an act of the interstate commission,
 17 the act shall have been taken at a meeting of the interstate commission
 18 and shall have received an affirmative vote of a majority of the
 19 members present.

20 (b) Each member of the interstate commission is entitled to cast a
 21 vote to which that compacting state is entitled and to participate in the
 22 business and affairs of the interstate commission. A member shall vote
 23 in person on behalf of the state and shall not delegate a vote to another
 24 member state. However, a state council shall appoint another
 25 authorized representative, in the absence of the commissioner from that
 26 state, to cast a vote on behalf of the member state at a specified
 27 meeting. The bylaws may provide for members' participation in
 28 meetings by telephone or other means of telecommunication or
 29 electronic communication. Any voting conducted by telephone or other
 30 means of telecommunication or electronic communication shall be
 31 subject to the same quorum requirements of meetings where members
 32 are present in person.

33 (c) The interstate commission shall meet at least once during each
 34 calendar year. The chairperson of the interstate commission may call
 35 additional meetings at any time and, upon the request of a majority of
 36 the members, shall call additional meetings.

37 (d) The interstate commission's bylaws shall establish conditions
 38 and procedures under which the interstate commission shall make its
 39 information and official records available to the public for inspection
 40 or copying. The interstate commission may exempt from disclosure any
 41 information or official records to the extent they would adversely affect
 42 personal privacy rights or proprietary interests. In adopting rules, the
 43 interstate commission may make available to law enforcement agencies
 44 records and information otherwise exempt from disclosure and may
 45 enter into agreements with law enforcement agencies to receive or
 46 exchange information or records, subject to nondisclosure and
 47 confidentiality provisions.

48 (e) Public notice shall be given of all meetings, and all meetings
 49 shall be open to the public, except as set forth in the rules or as
 50 otherwise provided in the compact. The interstate commission shall

adopt rules consistent with the principles contained in the "Government in Sunshine Act," 5 U.S.C. 552(b), as amended. The interstate commission or any of its committees may close a meeting to the public if it determines by two-thirds (2/3) vote that an open meeting would be likely to:

- (1) relate solely to the interstate commission's internal personnel practices and procedures;
- (2) disclose matters specifically exempted from disclosure by statute;
- (3) disclose trade secrets or commercial or financial information that is privileged or confidential;
- (4) involve accusing any person of a crime or formally censuring any person;
- (5) disclose information of a personal nature that would constitute a clearly unwarranted invasion of personal privacy;
- (6) disclose investigatory records compiled for law enforcement purposes;
- (7) disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the interstate commission with respect to a regulated entity for the purpose of regulation or supervision of the entity;
- (8) disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity; or
- (9) specifically relate to the interstate commission's issuance of a subpoena or its participation in a civil action or proceeding.

(f) For every meeting closed under this provision, the interstate commission's chief legal officer shall publicly certify that, in the officer's opinion, the meeting may be closed to the public and shall reference each relevant exemptive provision. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in any meeting and that provide a full and accurate summary of any actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(g) The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules, which must specify the data to be collected, the means of collection and data exchange, and reporting requirements.

ARTICLE VII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The interstate commission shall adopt rules to effectively and efficiently achieve the purposes of the compact, including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states. Rulemaking shall occur under the criteria set forth in this article and the bylaws and rules adopted under this article and the bylaws. Such rulemaking shall

substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C. 551 et seq. and the Federal Advisory Committee Act, 5 U.S.C. app. 2, section 1 et seq., as may be amended (referred to in this compact as "APA").

(b) All rules and amendments shall become binding as of the date specified in each rule or amendment.

(c) When adopting a rule, the interstate commission shall:

- (1) publish the proposed rule, stating with particularity the text of the rule that is proposed and the reason for the proposed rule;
- (2) allow persons to submit written data, facts, opinions, and arguments, which information shall be publicly available;
- (3) provide an opportunity for an informal hearing; and
- (4) adopt a final rule and its effective date, if appropriate, based on the rulemaking record.

(d) Not later than sixty (60) days after a rule is adopted, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the interstate commission's principal office is located for judicial review of the rule. If the court finds that the interstate commission's action is not supported by substantial evidence (as defined in the APA) in the rulemaking record, the court shall hold the rule unlawful and set it aside. Subjects to be addressed within twelve (12) months after the first meeting must at a minimum include:

- (1) notice to victims and opportunity to be heard;
- (2) offender registration and compliance;
- (3) violations/returns;
- (4) transfer procedures and forms;
- (5) eligibility for transfer;
- (6) collection of restitution and fees from offenders;
- (7) data collection and reporting;
- (8) the level of supervision to be provided by the receiving state;
- (9) transition rules governing the operation of the compact and the interstate commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact; and
- (10) mediation, arbitration, and dispute resolution.

(e) Upon determination by the interstate commission that an emergency exists, it may adopt an emergency rule that shall become effective immediately upon adoption. However, the rulemaking procedures provided under this article shall be applied retroactively to the rule as soon as reasonably possible and not later than ninety (90) days after the effective date of the rule.

ARTICLE VIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

Part A. Oversight

(a) The interstate commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in non-compacting states that may significantly affect compacting states.

(b) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities, or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes.

Part B. Dispute Resolution

(a) The compacting states shall report to the interstate commission on issues or activities of concern to them and cooperate with and support the interstate commission in the discharge of its duties and responsibilities.

(b) The interstate commission shall attempt to resolve any disputes or other issues that are subject to the compact and that may arise between compacting states and non-compacting states.

(c) The interstate commission shall enact a bylaw or adopt a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

Part C. Enforcement

The interstate commission, in the reasonable exercise of its discretion, shall enforce this compact using any or all means set forth in Article XI, Part C, of this compact.

ARTICLE IX

FINANCE

(a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The interstate commission shall levy and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff that must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The total annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state, and shall adopt a rule binding upon all compacting states that governs the assessment.

(c) The interstate commission shall not incur any obligation of any kind before securing the funds adequate to meet the obligation, nor shall the interstate commission pledge the credit of any compacting state except by and with the authority of the compacting state.

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual

1 report of the interstate commission.

2 ARTICLE X

3 COMPACTING STATES, DATE, AND AMENDMENT

4 (a) Any state may become a compacting state. The compact
5 becomes effective and binding upon legislative enactment of the
6 compact into law by not less than thirty-five (35) states. The initial
7 effective date shall be the later of July 1, 2001, or upon enactment into
8 law by the thirty-fifth jurisdiction. Thereafter, the compact shall
9 become effective and binding on any other compacting state upon
10 enactment of the compact into law by that state. The governors of
11 nonmember states or their designees will be invited to participate in
12 interstate commission activities on a nonvoting basis before adoption
13 of the compact by all states and territories of the United States.

14 (b) Amendments to the compact may be proposed by the interstate
15 commission for enactment by the compacting states. No amendment
16 shall become effective and binding upon the interstate commission and
17 the compacting states unless and until it is enacted into law by
18 unanimous consent of the compacting states.

19 ARTICLE XI

20 WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL 21 ENFORCEMENT

22 Part A. Withdrawal

23 (a) Once effective, the compact continues in force and remains
24 binding upon every compacting state. A compacting state may
25 withdraw from the compact ("withdrawing state") by enacting a statute
26 specifically repealing the statute that enacted the compact into law.

27 (b) The effective date of withdrawal is the effective date of the
28 repeal.

29 (c) The withdrawing state shall immediately notify the chairperson
30 of the interstate commission in writing upon the introduction of
31 legislation repealing this compact in the withdrawing state. The
32 interstate commission shall notify the other compacting states of the
33 withdrawing state's intent to withdraw within sixty (60) days of its
34 receipt.

35 (d) The withdrawing state is responsible for all assessments,
36 obligations, and liabilities incurred through the effective date of
37 withdrawal, including any obligations the performance of which
38 extends beyond the effective date of withdrawal.

39 (e) Reinstatement following withdrawal of any compacting state
40 shall occur upon the withdrawing state reenacting the compact or upon
41 such later date as determined by the interstate commission.

42 Part B. Default

43 (a) If the interstate commission determines that any compacting
44 state has at any time defaulted ("defaulting state") in the performance
45 of any of its obligations or responsibilities under this compact, the
46 bylaws, or any adopted rules, the interstate commission may impose
47 any or all of the following penalties:

48 (1) Fines, fees, and costs levied upon the county responsible for
49 the default, or upon the state, if the state is responsible for the
50 default, in amounts considered reasonable as fixed by the

1 interstate commission.

2 (2) Remedial training and technical assistance as directed by the
3 interstate commission.

4 (3) Suspension and termination of membership in the compact.

5 (b) Suspension shall be imposed only after all other reasonable
6 means of securing compliance under the bylaws and rules have been
7 exhausted. Immediate notice of suspension shall be given by the
8 interstate commission to the governor, the chief justice or the chief
9 judicial officer of the state, the majority and minority leaders of the
10 defaulting state's legislature, and the state council.

11 (c) The grounds for default include, but are not limited to, failure
12 of a compacting state to perform such obligations or responsibilities
13 imposed upon it by this compact, interstate commission bylaws, or
14 adopted rules. The interstate commission shall immediately notify the
15 defaulting state in writing of the penalty imposed by the interstate
16 commission on the defaulting state pending a cure of the default. The
17 interstate commission shall stipulate the conditions and the time within
18 which the defaulting state must cure its default. If the defaulting state
19 fails to cure the default within the time specified by the interstate
20 commission, in addition to any other penalties imposed herein, the
21 defaulting state may be terminated from the compact upon an
22 affirmative vote of a majority of the compacting states, and all rights,
23 privileges, and benefits conferred by this compact shall be terminated
24 from the effective date of suspension.

25 (d) Within sixty (60) days of the effective date of termination of
26 a defaulting state, the interstate commission shall notify the governor,
27 the chief justice or the chief judicial officer of the state, the majority
28 and minority leaders of the defaulting state's legislature, and the state
29 council of such termination.

30 (e) The defaulting state is responsible for all assessments,
31 obligations, and liabilities incurred through the effective date of
32 termination, including any obligations, the performance of which
33 extends beyond the effective date of termination.

34 (f) The interstate commission shall not bear any costs relating to
35 the defaulting state unless otherwise mutually agreed upon between the
36 interstate commission and the defaulting state. Reinstatement following
37 termination of any compacting state requires both a reenactment of the
38 compact by the defaulting state and the approval of the interstate
39 commission under the rules.

40 Part C. Judicial Enforcement

41 The interstate commission may, by majority vote of the members,
42 initiate legal action in the United States District Court for the District
43 of Columbia or, at the discretion of the interstate commission, in the
44 federal district where the interstate commission has its offices, to
45 enforce compliance with the provisions of the compact and its adopted
46 rules and bylaws against any compacting state in default or against a
47 county if the county is responsible for the default. If judicial
48 enforcement is necessary, the prevailing party shall be awarded all
49 costs of such litigation, including reasonable attorney's fees.

50 Part D. Dissolution of Compact

(a) The compact dissolves effective on the date of the withdrawal or default of the compacting state that reduces membership in the compact to one (1) compacting state.

(b) Upon the dissolution of this compact, the compact becomes void and is of no further force or effect, and the business and affairs of the interstate commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XII

SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally constructed to effectuate its purposes.

ARTICLE XIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

(a) **Except as provided in subsection (c)**, all lawful actions of the interstate commission, including all rules and bylaws adopted by the interstate commission, are binding upon the compacting states. All agreements between the interstate commission and the compacting states are binding in accordance with their terms. Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

(b) Any provision of this compact that violates the Constitution of the State of Indiana is ineffective in Indiana.

(c) After July 1, 2008, a state may not send an offender to Indiana who:

- (1) has been convicted of murder, including an attempt or a conspiracy to commit murder, in any jurisdiction;**
- (2) is a sexually violent predator under IC 35-38-1-7.5; or**
- (3) has committed an offense or a combination of offenses described in IC 35-38-1-7.5(b) in any jurisdiction that, if committed in Indiana, would make the offender a sexually violent predator;**

unless the offender is under or subject to supervision for the remainder of the offender's life.

SECTION 27. IC 25-20.2-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) An individual who applies for a license as a home inspector must do the following:

(1) Furnish evidence satisfactory to the board showing that the individual:

- (A) is at least eighteen (18) years of age;
- (B) has graduated from high school or earned an Indiana general educational development (GED) diploma; and
- (C) has not been:
 - (i) convicted of an act that would constitute a ground for disciplinary sanction under IC 25-1-11;
 - (ii) convicted of a crime that has a direct bearing on the

- 1 individual's ability to perform competently and fully as
- 2 a licensee;
- 3 (iii) listed on a national or state registry of sex **or**
- 4 **violent** offenders; or
- 5 (iv) the subject of a disciplinary or enforcement action
- 6 by another state or a local jurisdiction in connection
- 7 with the performance of home inspections or the
- 8 licensing or certification of home inspectors.
- 9 (2) Verify the information submitted on the application form.
- 10 (3) Complete a board approved training program or course of
- 11 study involving the performance of home inspections and the
- 12 preparation of home inspection reports and pass an examination
- 13 prescribed or approved by the board.
- 14 (4) Submit to the board a certificate of insurance or other
- 15 evidence of financial responsibility that is acceptable to the
- 16 board and that:
 - 17 (A) is issued by an insurance company or other legal entity
 - 18 authorized to transact business in Indiana;
 - 19 (B) provides for general liability coverage of at least one
 - 20 hundred thousand dollars (\$100,000);
 - 21 (C) lists the state as an additional insured;
 - 22 (D) states that cancellation and nonrenewal of the
 - 23 underlying policy or other evidence of financial
 - 24 responsibility is not effective until the board receives at
 - 25 least ten (10) days prior written notice of the cancellation or
 - 26 nonrenewal; and
 - 27 (E) contains any other terms and conditions established by
 - 28 the board.
- 29 (5) Pay a licensing fee established by the board.
- 30 (b) An individual applying for a license as a home inspector must
- 31 apply on a form prescribed and provided by the board.
- 32 SECTION 28. IC 31-19-11-1, AS AMENDED BY P.L.140-2006,
- 33 SECTION 17 AND P.L.173-2006, SECTION 17, AND AS
- 34 AMENDED BY P.L.145-2006, SECTION 253, IS CORRECTED AND
- 35 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:
- 36 Sec. 1. (a) Whenever the court has heard the evidence and finds that:
 - 37 (1) the adoption requested is in the best interest of the child;
 - 38 (2) the petitioner or petitioners for adoption are of sufficient
 - 39 ability to rear the child and furnish suitable support and
 - 40 education;
 - 41 (3) the report of the investigation and recommendation under
 - 42 IC 31-19-8-5 has been filed;
 - 43 (4) the attorney or agency arranging an adoption has filed with
 - 44 the court an affidavit prepared by the state department of health
 - 45 under IC 31-19-5-16 indicating whether a man is entitled to
 - 46 notice of the adoption because the man has registered with the
 - 47 putative father registry in accordance with IC 31-19-5;
 - 48 (5) proper notice arising under subdivision (4), if notice is
 - 49 necessary, of the adoption has been given;
 - 50 (6) the attorney or agency has filed with the court an affidavit

prepared by the state department of health under:

(A) IC 31-19-6 indicating whether a record of a paternity determination; or

(B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

(7) proper consent, if consent is necessary, to the adoption has been given;

(8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and

(9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the ~~department's~~ *state department of health's* affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery as a felony (IC 35-42-2-1).

(7) Aggravated battery (IC 35-42-2-1.5).

(8) Kidnapping (IC 35-42-3-2).

(9) Criminal confinement (IC 35-42-3-3).

(10) A felony sex offense under IC 35-42-4.

(11) Carjacking (IC 35-42-5-2).

(12) Arson (IC 35-43-1-1).

(13) Incest (IC 35-46-1-3).

(14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

(15) Child selling (IC 35-46-1-4(d)).

(16) A felony involving a weapon under IC 35-47 or IC 35-47.5.

(17) A felony relating to controlled substances under IC 35-48-4.

(18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

(19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (11), (12), (16), or

(17), or its equivalent under subdivision (19), if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is ~~an~~ a sex **or violent** offender (as defined in ~~IC 5-2-12-4~~; IC 11-8-8-5).

SECTION 29. IC 35-43-1-2, AS AMENDED BY P.L.173-2006, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) A person who:

- (1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or
- (2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;

commits criminal mischief, a Class B misdemeanor. However, the offense is:

(A) a Class A misdemeanor if:

- (i) the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500);
- (ii) the property damaged was a moving motor vehicle;
- (iii) the property damaged contained data relating to a person required to register as a sex **or violent** offender under IC 11-8-8 and the person is not a sex **or violent** offender or was not required to register as a sex **or violent** offender;
- (iv) the property damaged was a locomotive, a railroad car, a train, or equipment of a railroad company being operated on a railroad right-of-way;
- (v) the property damaged was a part of any railroad signal system, train control system, centralized dispatching system, or highway railroad grade crossing warning signal on a railroad right-of-way owned, leased, or operated by a railroad company;
- (vi) the property damaged was any rail, switch, roadbed, viaduct, bridge, trestle, culvert, or embankment on a right-of-way owned, leased, or operated by a railroad company; or
- (vii) the property damage or defacement was caused by paint or other markings; and

(B) a Class D felony if:

- (i) the pecuniary loss is at least two thousand five hundred dollars (\$2,500);
- (ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;
- (iii) the damage is to a public record;
- (iv) the property damaged contained data relating to a person required to register as a sex **or violent** offender under IC 11-8-8 and the person is a sex **or violent** offender or was required to register as a sex **or violent** offender;

- 1 (v) the damage causes substantial interruption or
- 2 impairment of work conducted in a scientific research
- 3 facility;
- 4 (vi) the damage is to a law enforcement animal (as
- 5 defined in IC 35-46-3-4.5); or
- 6 (vii) the damage causes substantial interruption or
- 7 impairment of work conducted in a food processing
- 8 facility.

9 (b) A person who recklessly, knowingly, or intentionally damages:

- 10 (1) a structure used for religious worship;
- 11 (2) a school or community center;
- 12 (3) the grounds:
 - 13 (A) adjacent to; and
 - 14 (B) owned or rented in common with;
- 15 a structure or facility identified in subdivision (1) or (2); or
- 16 (4) personal property contained in a structure or located at a
- 17 facility identified in subdivision (1) or (2);

18 without the consent of the owner, possessor, or occupant of the

19 property that is damaged, commits institutional criminal mischief, a

20 Class A misdemeanor. However, the offense is a Class D felony if the

21 pecuniary loss is at least two hundred fifty dollars (\$250) but less than

22 two thousand five hundred dollars (\$2,500), and a Class C felony if the

23 pecuniary loss is at least two thousand five hundred dollars (\$2,500).

24 (c) If a person is convicted of an offense under this section that

25 involves the use of graffiti, the court may, in addition to any other

26 penalty, order that the person's operator's license be suspended or

27 invalidated by the bureau of motor vehicles for not more than one (1)

28 year.

29 (d) The court may rescind an order for suspension or invalidation

30 under subsection (c) and allow the person to receive a license or permit

31 before the period of suspension or invalidation ends if the court

32 determines that:

- 33 (1) the person has removed or painted over the graffiti or has
- 34 made other suitable restitution; and
- 35 (2) the person who owns the property damaged or defaced by the
- 36 criminal mischief or institutional criminal mischief is satisfied
- 37 with the removal, painting, or other restitution performed by the
- 38 person.

39 SECTION 30. IC 35-50-2-2, AS AMENDED BY P.L.151-2006,

40 SECTION 28, AND AS AMENDED BY P.L.140-2006, SECTION 36

41 AND P.L.173-2006, SECTION 36, IS CORRECTED AND

42 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

43 Sec. 2. (a) The court may suspend any part of a sentence for a felony,

44 except as provided in this section or in section 2.1 of this chapter.

45 (b) With respect to the following crimes listed in this subsection,

46 the court may suspend only that part of the sentence that is in excess of

47 the minimum sentence, unless the court has approved placement of the

48 offender in a forensic diversion program under IC 11-12-3.7:

- 49 (1) The crime committed was a Class A or Class B felony and
- 50 the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

(D) kidnapping (IC 35-42-3-2);

(E) confinement (IC 35-42-3-3) with a deadly weapon;

(F) rape (IC 35-42-4-1) as a Class A felony;

(G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;

(H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;

(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;

(J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;

(K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;

(L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

(M) escape (IC 35-44-3-5) with a deadly weapon;

(N) rioting (IC 35-45-1-2) with a deadly weapon;

(O) dealing in cocaine *or* a narcotic drug ~~*or methamphetamine*~~ (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(P) *dealing in methamphetamine (IC 35-48-4-1.1) if the court finds the person possessed a firearm (as defined in*

IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver the methamphetamine pure or adulterated to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(Q) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

~~(Q)~~ (R) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;

~~(R)~~ (S) an offense under IC 9-30-5-5(b) (operating a vehicle while intoxicated causing death); or

~~(S)~~ (T) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of **the sentence of a sex offender or violent offender** (as defined in ~~IC 5-2-12-4~~ IC 11-8-8-5) **sentence** that is suspendible under subsection (b), the court shall place the **sex or violent** offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) or IC 35-48-4-6.1(b)(1)(B) may not be suspended.

SECTION 31. IC 36-2-13-5.5, AS AMENDED BY P.L.173-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2007]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain an Indiana sex **and violent** offender **registry** web site, known as the Indiana sex **and violent** offender registry, to inform the general public about the identity, location, and appearance of every sex **or violent** offender residing within Indiana. The web site must provide information regarding each sex **or violent** offender, organized by county of residence. The web site shall be updated at least daily.

(b) The Indiana sex **and violent** offender **registry** web site must include the following information:

(1) A recent photograph of every sex **or violent** offender who has registered with a sheriff. ~~after the effective date of this chapter.~~

(2) The home address of every sex **or violent** offender.

(3) The information required under IC 11-8-8-8.

(c) Every time a sex **or violent** offender registers, but at least once per year, the sheriff shall photograph the sex **or violent** offender. The sheriff shall place this photograph on the Indiana sex **and violent** offender **registry** web site.

(d) The photograph of a sex **or violent** offender described in subsection (c) must meet the following requirements:

(1) The photograph must be full face, front view, with a plain white or off-white background.

(2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.

(3) The photograph must be in color.

(4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.

(5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.

(6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the Indiana sex **and violent** offender **registry** web site.

(e) The Indiana sex **and violent** offender **registry** web site may be funded from:

(1) the jail commissary fund (IC 36-8-10-21);

(2) a grant from the criminal justice institute; and

(3) any other source, subject to the approval of the county fiscal body.

SECTION 32. IC 36-3-1-5.1, AS AMENDED BY P.L.1-2006, SECTION 559, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.1. (a) Except for those duties that are reserved by law to the county sheriff in this section, the city-county legislative body may by majority vote adopt an ordinance, approved by

1 the mayor, to consolidate the police department of the consolidated city
2 and the county sheriff's department.

3 (b) The city-county legislative body may not adopt an ordinance
4 under this section unless it first:

5 (1) holds a public hearing on the proposed consolidation; and

6 (2) determines that:

7 (A) reasonable and adequate police protection can be
8 provided through the consolidation; and

9 (B) the consolidation is in the public interest.

10 (c) If an ordinance is adopted under this section, the consolidation
11 shall take effect on the date specified in the ordinance.

12 (d) Notwithstanding any other law, an ordinance adopted under
13 this section must provide that the county sheriff's department shall be
14 responsible for all the following for the consolidated city and the
15 county under the direction and control of the sheriff:

16 (1) County jail operations and facilities.

17 (2) Emergency communications.

18 (3) Security for buildings and property owned by:

19 (A) the consolidated city;

20 (B) the county; or

21 (C) both the consolidated city and county.

22 (4) Service of civil process and collection of taxes under tax
23 warrants.

24 (5) Sex **or violent** offender registration.

25 (e) The following apply if an ordinance is adopted under this
26 section:

27 (1) The department of local government finance, on
28 recommendation from the local government tax control board,
29 shall adjust the maximum permissible ad valorem property tax
30 levy of the consolidated city and the county for property taxes
31 first due and payable in the year a consolidation takes effect
32 under this section. When added together, the adjustments under
33 this subdivision must total zero (0).

34 (2) The ordinance must specify which law enforcement officers
35 of the police department and which law enforcement officers of
36 the county sheriff's department shall be law enforcement officers
37 of the consolidated law enforcement department.

38 (3) The ordinance may not prohibit the providing of law
39 enforcement services for an excluded city under an interlocal
40 agreement under IC 36-1-7.

41 (4) A member of the county police force who:

42 (A) was an employee beneficiary of the sheriff's pension
43 trust before the consolidation of the law enforcement
44 departments; and

45 (B) after the consolidation becomes a law enforcement
46 officer of the consolidated law enforcement department;

47 remains an employee beneficiary of the sheriff's pension trust.
48 The member retains, after the consolidation, credit in the
49 sheriff's pension trust for service earned while a member of the
50 county police force and continues to earn service credit in the

sheriff's pension trust as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the sheriff's pension trust.

(5) A member of the police department of the consolidated city who:

(A) was a member of the 1953 fund or the 1977 fund before the consolidation of the law enforcement departments; and

(B) after the consolidation becomes a law enforcement officer of the consolidated law enforcement department;

remains a member of the 1953 fund or the 1977 fund. The member retains, after the consolidation, credit in the 1953 fund or the 1977 fund for service earned while a member of the police department of the consolidated city and continues to earn service credit in the 1953 fund or the 1977 fund as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the 1953 fund or the 1977 fund.

(6) The ordinance must designate the merit system that shall apply to the law enforcement officers of the consolidated law enforcement department.

(7) The ordinance must designate who shall serve as a coapplicant for a warrant or an extension of a warrant under IC 35-33.5-2.

(8) The consolidated city may levy property taxes within the consolidated city's maximum permissible ad valorem property tax levy limit to provide for the payment of the expenses for the operation of the consolidated law enforcement department. The police special service district established under section 6 of this chapter may levy property taxes to provide for the payment of expenses for the operation of the consolidated law enforcement department within the territory of the police special service district. Property taxes to fund the pension obligation under IC 36-8-7.5 may be levied only by the police special service district within the police special service district. The consolidated city may not levy property taxes to fund the pension obligation under IC 36-8-7.5. Property taxes to fund the pension obligation under IC 36-8-8 for members of the 1977 police officers' and firefighters' pension and disability fund who were members of the police department of the consolidated city on the effective date of the consolidation may be levied only by the police special service district within the police special service district. Property taxes to fund the pension obligation under IC 36-8-10 for members of the sheriff's pension trust and under IC 36-8-8 for members of the 1977 police officers' and firefighters' pension and disability fund who were not members of the police department of the consolidated city on the effective date of the consolidation may be levied by the consolidated city within the consolidated city's maximum permissible ad valorem property tax levy. The assets of the consolidated city's 1953 fund and the assets of the sheriff's pension trust may not be pledged

1 after the effective date of the consolidation as collateral for any
2 loan.

3 (9) The executive of the consolidated city shall provide for an
4 independent evaluation and performance audit, due before
5 March 1 of the year following the adoption of the consolidation
6 ordinance and for the following two (2) years, to determine:

7 (A) the amount of any cost savings, operational efficiencies,
8 or improved service levels; and

9 (B) any tax shifts among taxpayers;
10 that result from the consolidation. The independent evaluation
11 and performance audit must be provided to the legislative
12 council in an electronic format under IC 5-14-6 and to the ~~state~~
13 budget committee.

14 SECTION 33. IC 36-8-10-21 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) This section
16 applies to any county that has a jail commissary that sells merchandise
17 to inmates.

18 (b) A jail commissary fund is established, referred to in this
19 section as "the fund". The fund is separate from the general fund, and
20 money in the fund does not revert to the general fund.

21 (c) The sheriff, or ~~his~~ **the sheriff's** designee, shall deposit all
22 money from commissary sales into the fund, which ~~he~~ **the sheriff or**
23 **the sheriff's designee** shall keep in a depository designated under
24 IC 5-13-8.

25 (d) The sheriff, or ~~his~~ **the sheriff's** designee, at ~~his~~ **the sheriff's or**
26 **the sheriff's designee's** discretion and without appropriation by the
27 county fiscal body, may disburse money from the fund for:

28 (1) merchandise for resale to inmates through the commissary;

29 (2) expenses of operating the commissary, including, but not
30 limited to, facilities and personnel;

31 (3) special training in law enforcement for employees of the
32 sheriff's department;

33 (4) equipment installed in the county jail;

34 (5) equipment, including vehicles and computers, computer
35 software, communication devices, office machinery and
36 furnishings, cameras and photographic equipment, animals,
37 animal training, holding and feeding equipment and supplies, or
38 attire used by an employee of the sheriff's department in the
39 course of the employee's official duties;

40 (6) an activity provided to maintain order and discipline among
41 the inmates of the county jail;

42 (7) an activity or program of the sheriff's department intended to
43 reduce or prevent occurrences of criminal activity, including the
44 following:

45 (A) Substance abuse.

46 (B) Child abuse.

47 (C) Domestic violence.

48 (D) Drinking and driving.

49 (E) Juvenile delinquency;

50 (8) expenses related to the establishment, operation, or

- 1 maintenance of the sex **and violent** offender **registry** web site
2 under IC 36-2-13-5.5; or
3 (9) any other purpose that benefits the sheriff's department that
4 is mutually agreed upon by the county fiscal body and the county
5 sheriff.
6 Money disbursed from the fund under this subsection must be
7 supplemental or in addition to, rather than a replacement for, regular
8 appropriations made to carry out the purposes listed in subdivisions (1)
9 through (8).
10 (e) The sheriff shall maintain a record of the fund's receipts and
11 disbursements. The state board of accounts shall prescribe the form for
12 this record. The sheriff shall semiannually provide a copy of this record
13 of receipts and disbursements to the county fiscal body. The
14 semiannual reports are due on July 1 and December 31 of each year.
(Reference is to SB 78 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Corrections, Criminal and Civil Matters.

LONG, Chairperson